

REMARKS

Claims 21, 24-29, 31-36 and 38 remain in the application. The final rejection was withdrawn and all of the claims now stand rejected under Section 103 based on new combinations. Claims 21, 24-29 and 31-36 are rejected based on Wong-Insley (U.S. 6,131,166) in view of Gloudeman (U.S. 6,028,998) and in further view of Anderson (U.S. 7,293,261). Claim 38 is rejected based on Wong-Insley (U.S. 6,131,166) in view of Gloudeman (U.S. 6,028,998) and in further view of Hammond (U.S. Pub. 6,336,118). Having carefully considered the new citations relied upon in the prior art, applicants request reconsideration and allowance over the prior art for reasons similar to the argument which has resulted in withdrawal of the prior final rejection. The claims are amended to further distinguish the invention over the prior art.

The independent claims 21 and 29 are each directed to a system or method for programming an automation system or an automation device. As apparently acknowledged by the Examiner, the primary reference, Wong-Insley, which has been relied upon in all of the art rejections during this examination, is not at all concerned with programming of automation systems or devices. In an earlier response the claims were amended to recite features specific to automation systems and devices. Despite secondary reliance upon Gloudeman and Anderson, it cannot be seen that the claimed subject matter is taught or suggested by any combination of the prior art. Reasons now follow.

Although the claims are all directed to providing device device-independent functionality among automation devices, Wong-Insley is still relied upon as the primary reference. Mere presence of components which can be extracted from this reference to reconstruct the invention is not a basis for obviousness. More is required. Nor do the secondary references compensate for this deficiency. Specifically, it is noted that Gloudeman and Anderson are relied on in part for what Wong-Insley does not disclose. But mere disclosure in Gloudeman or Anderson of components missing from Wong-Insley is not in and of itself sufficient for a rejection because all inventions are combinations and the mere identification of components in a piecemeal manner is not the test for patentability.

In this regard it must also be noted that Gloudeman lacks subject matter for which it has been relied upon to raise the new rejection. Specifically, applicants require that the editors and compiler provide

"an automation functionality in a standard framework for application among automation devices having different command sets for being programmed ..."

while the Gloudeman reference (e.g., col. 4, lines 22-38 were cited in the rejection) does not relate to automation devices having different command sets for being programmed. The rejection fails to provide all features recited in the claims.

Also of importance, the combination would not result in the invention except for hindsight reconstruction according to the applicants' teachings. That is, none of the prior art identifies the problems the applicants solve, or any other reason to make the combination which is claimed. The features of the storage medium according to independent claim 29 include a software system for providing a "programming environment to create device-independent functionality among automation devices in an automation system ..." Since the references are each directed to different problems, the piecemeal extraction of features from each amounts to no more than a hindsight reconstruction of the invention.

As noted in MPEP Section 2142, the tendency to resort to hindsight based on the applicants' disclosure is often difficult to avoid due to the nature of the examination process. Nonetheless, such hindsight must be avoided. This hindsight is especially apparent based on the effort to read applicant's compiler (see claims 21 and 29) on the text at col. 4, lines 52-56 of Anderson. Previously Becker was relied upon for the same. While Anderson may disclose a compiler, it is not in the context of an intermediate language for further translation into different instructions for automation devices in different systems. It is only with this claimed arrangement (see claim 21) that one solution can be multiple automation devices and then translated into instructions for automation devices in different automation systems.

Even if there was an ability to meet all of the terms of the claims by combining the references as proposed in the new rejection, there would still be no teaching to form a

basis for obviousness. There is no precedent to use the components to achieve the claimed functions. No one, without knowledge of the present application, would look to these references to create that which is now claimed. As an example, it should be noted that the claimed compiler, providing an intermediate language, in combination with an "automation device-specific adapter for each of the automation devices" not only results in each adapter providing a translation of a solution into instructions, but also reduces the quantity of compilers used for developing an automation solution. Otherwise, each programming language of each editor used would have to be translated with a special compiler for the target platform. This would require  $n \times m$  compilers for  $m$  editors and  $n$  automation devices. As a feature of the claimed invention, only  $n + m$  compilers are required to implement a specific automation solution.

If the Examiner disagrees with any of the foregoing, the applicant requests that the examiner provide a complete response so that applicants can reassess whether the rejection has any merit. Although the foregoing argument was expressly presented with reference to claim 21, it is applicable to claim 29 and all of the dependent claims.

The rejection of claim 38 over Wong-Insley in view of Gloudeman and in further view of Hammond is traversed at least for the same reason noted above regarding the failure of Gloudeman to disclose automation devices having different command sets for being programmed.

### CONCLUSION

Again, as acknowledged by the Examiner, the Wong-Insley reference expressly relates to power management of computer systems and attached devices. There is no basis for extracting subject matter relating to Java applications for combination with discrete pieces of disclosure in the secondary references. This is an improper basis for an obviousness rejection. Further, as already noted, there are other distinctions based on both components and functionality which the rejection overlooks.

For the above reasons the new combination of prior art does not provide a basis to reject any of the claims. Moreover, to expedite allowance, the claims have been further

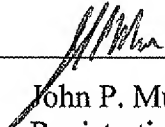
Serial No. 10/527,914  
Atty. Doc. No. 2002P11020WOUS

amended to present further distinctions over the prior art. In summary, there is no basis for rejecting the claims. Removal of the rejection is therefore required.

The application is in condition for allowance. The Commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d), or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

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